THE HON'BLE SRI JUSTICE P.S.NARAYANA

Writ Petition No.16865 of 2006

Dated: 25th October, 2007

Between :-

T. Suguna .. Petitioner

And

The Joint Collector, Prakasam District
Ongole and 2 others .. Respondents

THE HON'BLE SRI JUSTICE P.S.NARAYANA

Writ Petition No.16865 of 2006

ORDER:-

Heard both the Counsel.

Sri I.Koti Reddy, the learned Counsel representing the writ petitioner would submit that despite the directions made by this Court to the effect that the charges to be specified, the same had not been complied with and in a way the petitioner being harassed.

Learned A.G.P. for Civil Supplies however would submit that in the light of the facts and circumstances the authorities are well justified in initiation of the action.

The Writ Petition is filed for a Writ of Mandamus declaring the proceedings in Rc.No.F/1900/2005, dt.15-2-

2006 issued by the 2nd respondent and consequential proceedings in Rc.No.CS2/897/2006, dt.7-7-2006 passed by the 1st respondent as illegal, arbitrary and unconstitutional and against the principles of natural justice and contrary to provisions of Essential Commodities Act and pass such other suitable orders.

It is stated that *the petitioner is functioning as permanent Fair Price Shop Dealer of Panduva Nagulavaram village, Veligandla Mandal, Prakasam District for the last 8 years and she is distributing the essential commodities to the cardholders in the village without any complaint whatsoever either from the villagers or from the officials. Further it is stated that quite surprisingly under the guise of inspection, the Enforcement Deputy Tahasildar inspect the shop of the petitioner on 6-7-2004 and a false report was submitted to the respondent No.2 and the 2nd respondent without application of his mind suspended her authorization by proceedings dt.9-7-2004 without issuing any notice and subsequently the 2nd respondent issued a show cause notice on 7-7-2004 and that the petitioner has given her explanation to the charges leveled against her in the show cause notice on 30-8-2004. It is also stated that the 2nd*

respondent without appreciating the explanation given by the petitioner to the allegations leveled against her, cancelled her dealership permanently on political pressure by order dt.14-9-2004 and aggrieved by the same, the petitioner preferred an appeal before the 1st respondent against the cancellation proceedings RCF/1370/2004, dt.14-9-2004. Further it is stated that the 1st respondent after hearing the case and on perusal of the records, allowed the appeal by proceedings Rc.No.CS2/3878/2004, dt.30-9-2005 by setting aside the cancellation orders passed by the 2nd respondent and since then she is distributing the commodities to the cardholders. It is also further stated that the temporary dealer who was appointed during the suspension period of the petitioner and other cardholders filed the revision petition before the District Collector questioning the order dated 30-9-2005 passed by the 1st respondent and the said revision petition was entertained and without applying his mind allowed the revision petition on the ground that the petitioner involved earlier in one vigilance case and the said allegation, which is not at all charge in the present proceedings and no material is produced to show that, when the alleged offence occurred and what happened in that case. Further it is stated that aggrieved by the order

dt.26-12-2005 passed by the District Collector (Revisional Authority) by allowing the revision petition, the petitioner filed the Writ Petition No.189/2006 before this Hon'ble Court and after hearing the same this Hon'ble Court disposed of the same on 5-1-2006 with the following direction:-

> *"The allegations made in the show cause notice are all general vague and not specific. Therefore, it is not just and proper to cancel the authorization on general and vague allegations without furnishing any material particulars. In view of the aforesaid ambiguity of the allegations, it may not be just and proper to cancel the authorization of the petitioner."*
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> *"Having regard to the facts and circumstances of the case, the impugned order of the 1st dated 26-12-2005 is set aside and the 3rd respondent is directed to frame specific charges against the petitioner by giving a show cause notice, and pass appropriate orders, after considering the explanation of the petitioner, in accordance with law."*

It is also further stated that without following the directions of this Hon'ble Court the 2nd respondent issued the show cause notice dated 19-1-2006 with the very same charges leveled against the petitioner in earlier proceedings and for the said show cause notice the petitioner submitted her explanation on 13-2-2006. It is also stated by the

petitioner that quite surprisingly issued the cancellation of authorization proceedings on 15-2-2006 even without giving an opportunity for her personal hearing which is illegal, arbitrary, unconstitutional and against to the principles of natural justice. Further it is stated that the 2nd respondent only on political pressure cancelled the authorization of the petitioner without hearing for the same charges, which were already in the earlier proceedings. It is further stated that this Court observed that the charges are vague, general and not specific, therefore, it is just and proper to cancel the authorization. Aggrieved by the said order dt.15-2-2006, the petitioner filed an appeal before the 1st and the 1st respondent without considering the facts of the case, disposed of the appeal. It is also stated that the 1st respondent disposed of the appeal by proceedings in Rc.No.CS2/1622/2006, dt.26-6-2006 by remanding the matter to the 2nd respondent to conduct detailed personal enquiry at the village and the enquiry shall be completed within four weeks till then the order dt.15-3-20076 of the 2nd respondent shall stand as it is. It is also stated that the 1st respondent while remanding the matter to the 2nd respondent for fresh enquiry, the 1st respondent should have allowed the petitioner to continue

the shop as there is no prima facie case against the petitioner. Certain further facts also had been narrated.

It is also brought to the notice of this Court that this Court disposed of yet another Writ Petition W.P.No.21780/2007 ordering until the completion of enquiry by the Revenue Divisional Officer, Kandukur, Prakasam District, the petitioner is permitted to distribute the commodities. It is stated that the petitioner is distributing the essential commodities even as on today.

This Court issued *rule nisi* on 14-8-2006 and granted interim direction on 14-8-2006. But, however, observed that this will not preclude the Revenue Divisional Officer, Kandukur, from conducting further enquiry into the matter as per the remand order dt.7-7-2006 passed by the Collector (CS), Prakasam District, Ongole.

On a careful appreciation of the facts and circumstances, this Court is of the considered opinion that the same charges had been repeated and no further specific charges as such had been framed. Hence, these charges on the strength of which the further enquiry to be conducted are hereby quashed since the '7' charges originally framed and the '3' charges subsequently framed substantially being the same, no specific and fresh charges as such had been framed, but however, liberty is

given to the authorities to frame fresh specific charges, if any, in accordance with law. Accordingly, with the above direction, the Writ Petition is disposed of. No order as to costs.

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Justice P.S.Narayana

Date : 25th October 2007

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